

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FIRESTONE FINANCIAL CORP.,

Plaintiff,

v.

AMUSEMENT GAME RENTALS, INC.,  
and ERIC BRASHER,

Defendants.

Case No. 2:12-cv-01252-MMD-RJJ

ORDER

(Plaintiff's *Ex Parte* Petition for  
Prejudgment Writ of Possession Or, in the  
Alternative, Order to Show Cause Why a  
Writ of Possession Should not Issue and  
Issue a Temporary Restraining Order  
—dkt. no. 2)

UPON CONSIDERATION of Plaintiff's *Ex Parte* Petition for Prejudgment Writ of Possession Or, in the Alternative, Order to Show Cause Why a Writ of Possession Should not Issue and Issue a Temporary Restraining Order, the supporting declarations and evidence, the record in this case, and for other good cause shown;

THE COURT HEREBY FINDS THAT:

1. Plaintiff has not satisfied the requirements of NRS § 31.856 for issuance of a pre-judgment writ of execution; The collateral consists of several pieces of gambling and gaming equipment secured by Plaintiff as collateral for several loans Plaintiff provided to Defendant Amusement Game Rentals; Plaintiff has not demonstrated that (1) the collateral at issue is perishable and will perish before a hearing on this case can be held (NRS § 31.856(c)(1)); or (2) that the property is in immediate danger of

1 Defendants destroying, harming, concealing, selling, or removing the collateral from this  
2 state (NRS § 31.856(c)(2));

3 2. Plaintiff further has not satisfied the requirements of Local Rule 7-5(b),  
4 which requires that “all *ex parte* motions, applications, requests shall contain a statement  
5 showing good cause why the matter was submitted to the Court without notice to all  
6 parties”;

7 3. For these reasons, Plaintiff’s Petition for Prejudgment Writ of Possession is  
8 DENIED;

9 4. However, Plaintiff is likely to succeed on the merits of its claims for breach  
10 of contract and breach of guaranty;

11 5. The balance of hardships tips in Plaintiff’s favor because the issuance of  
12 the temporary restraining order would merely prevent Defendants from destroying the  
13 collateral at issue in this case, without which Plaintiffs could suffer irreparable injury and  
14 incur additional expense if the collateral is sold or destroyed during the pendency of this  
15 action; and

16 6. The issuance of a temporary restraining order is in the public interest  
17 because it prevents Defendants from destroying valuable collateral which Defendants  
18 owe Plaintiff.

19 THEREFORE, IT IS HEREBY ORDERED THAT:

20 A. Defendants may not remove or destroy the collateral pending a hearing on  
21 Plaintiff’s Motion;

22 B. Plaintiff shall post a bond of \$100, based on the evidence establishing that  
23 Defendants will only suffer minimal damage, if any, by the issuance of this temporary  
24 restraining order. This requirement may be satisfied by tendering \$100 cash to the Clerk  
25 of the Court pursuant to Local Rule 67-1; and

26 IT IS HEREBY FURTHER ORDERED THAT:


27 A. Plaintiff shall immediately serve the Summons, Complaint, Plaintiff’s *Ex*  
28 *Parte* Petition for Prejudgment Writ of Possession Or, in the Alternative, Order to Show

1 Cause Why a Writ of Possession Should not Issue and Issue a Temporary Restraining  
2 Order, and all other papers and pleadings in this case upon Defendants.

3 B. The parties shall appear for hearing and oral argument on Plaintiff's Motion  
4 on July 26, 2012, at 10:00 AM at the Lloyd D. George Federal Courthouse, 333 Las  
5 Vegas Boulevard So., Las Vegas, NV 89101, Courtroom 4A.

6 C. Defendants shall file and serve their opposition to Plaintiff's Motion, if any,  
7 no later than July 23, 2012, by 12:00 PM, and Plaintiff shall file and serve its reply brief  
8 no later than July 25, 2012, by 12:00 PM.

9 ENTERED THIS 18<sup>th</sup> day of July 2012.

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12 UNITED STATES DISTRICT JUDGE  
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